

RECEIVED  
SURFACE TRANSPORTATION  
BOARD

ALVORD AND ALVORD  
ATTORNEYS AT LAW  
918 SIXTEENTH STREET, N.W.

SUITE 200  
WASHINGTON, D.C.

20006-2973

(202) 393-2266

FAX (202) 393-2156

OF COUNSEL  
URBAN A. LESTER

ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

RECORDATION NO. 20656

FILED

APR 25 '97

11:50AM

RECORDATION NO. 20656

FILED

APR 25 '97

11:50AM

April 25, 1997

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a), are two (2) copies of a Locomotive Lease Agreement, dated as of March 11, 1997, a primary document as defined in the Board's Rules for the Recordation of Documents and the following secondary documents related thereto: a Loan and Security Agreement, and a Collateral Assignment of Contract and Consent, both dated March 11, 1997.

Locomotive Lease Agreement

Lessor: Canada Southern Railway Company  
916 Vine Street  
Connersville, Indiana 47331

Lessees: Southwest Pennsylvania Railroad, Incorporated  
309 North Fifth Street  
Youngwood, Pennsylvania 15697

Camp Chase Industrial Railroad, Incorporated  
P.O. Box 28096  
Columbus, Ohio 43228

*Counter Part - CSM Law*

Mr. Vernon A. Williams  
April 25, 1997  
Page 2

Loan and Security Agreement

Debtor: Canada Southern Railway Company Incorporated  
916 Vine Street  
Connersville, Indiana 47331

Secured Party: DVI Financial Services, Inc.  
500 Hyde Park  
Doylestown, Pennsylvania 18901

Collateral Assignment of Contract

Assignor: Canada Southern Railway Company Incorporated  
916 Vine Street  
Connersville, Indiana 47331

Assignee: DVI Financial Services, Inc.  
500 Hyde Park  
Doylestown, Pennsylvania 18901

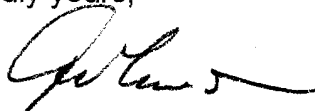
A description of the railroad equipment covered by the enclosed documents is:

two (2) locomotives SWP 1706 and CCRA 1855

Also enclosed is a check in the amount of \$72.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of each of the enclosed documents to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/bg  
Enclosures

RECORDATION NO. 20656 FILED

APR 25 '97

11-50AM

Number: 7C01

### LOCOMOTIVE LEASE AGREEMENT

THIS AGREEMENT, made this / / day of March, 1997 between Canada Southern Railway Company, Incorporated (CASO) and, South-west Pennsylvania Railroad, Incorporated (SWP) and Camp Chase Industrial Railroad, Incorporated (CCRA), both SWP and CCRA being individually and jointly the lessee (Lessee),

WITNESSETH THAT,

In consideration of the mutual agreement and covenants contained herein the parties agree to be bound as follows:

#### Terms and Conditions

##### 1. Lease of Locomotive

Lessee agrees to lease from CASO two locomotive units (Units) bearing numbers 1855 and 1706, more particularly described on Appendix A which is hereby made a part of this Agreement. Lessee applies to lease the Units for commercial purposes only and agrees that this lease is not a consumer contract.

##### 2. Location

Lessee acknowledges that the Units are presently located on Lessee's rail lines in Ohio and Pennsylvania. Lessee must receive the prior written consent of CASO, which shall not be unreasonably withheld, to move the Units from their present operating lines. In the event of such movement, it shall be the Lessee's responsibility to make sure the Units are properly transported and that adequate insurance (not less than that required elsewhere herein) is carried covering such movement. Any damages to the Units while in transit shall be the sole responsibility of the Lessee.

##### 3. Reasonable Care

Lessee shall use the Units in a careful and proper manner, complying with all applicable laws, ordinances, or regulations pertaining to the possession, use or maintenance of the Units. Lessee shall require that the Units be operated only by competent and qualified employees, and shall insure that the Units are not subjected to careless or needless rough usage.

##### 4. Identification

Lessee shall provide for the registration and licensing of the Units wherever or whenever required. If at any time CASO supplies Lessee with labels, plates, or other markings indicating CASO's ownership of the Units, Lessee shall affix and keep same in a prominent place on the Units. Lessee shall not cover up any marks of identification of ownership, including the numbers displayed on the Units.

5. Ownership

Ownership and title to the Units shall at all times remain in CASO's name unless transferred to Lessee by sale and Lessee shall have only the right to retain possession of the Units pursuant to the terms and conditions of this Agreement. Lessee shall provide CASO with immediate notice of any claim, levy, lien, or legal process issued against the Units. Lessee shall assist CASO by executing and delivering to CASO any such instruments and assurances that CASO deems necessary for the confirmation or perfection of CASO's ownership interest in the Units.

6. Alterations

Lessee is hereby given the right to make alterations, additions and improvement to the Units, provided that no alterations shall in any way reduce the value of the Units. If at any time CASO deems any alteration or addition to be detrimental to the value of the Units, CASO may give Lessee written notice requiring the restoration of the alteration or removal of the addition and Lessee shall perform same at Lessee's expense. Any such alterations, additions and improvements shall immediately become a part of the Units and ownership shall rest with CASO.

7. Maintenance and Repair

Lessee agrees to keep the Units in good repair and operating condition, allowing for reasonable wear and tear. Lessee agrees to pay all expenses of maintaining and repairing the Units, including labor, material, lubrication, parts and other similar expenses.

8. Inspection

CASO shall have the right, upon reasonable notice, to free access to inspect the Units and shall be afforded the necessary time for the purpose of such inspection. CASO shall make arrangement for such inspection so as to minimize any adverse impact upon Lessee's normal operations.

9. Casualty and Insurance

Lessee hereby assumes all risk of loss or damage to the Units from any cause. Destruction of, or damage to the Units shall not serve to relieve Lessee of any obligations under this Agreement and such obligations shall remain in full force and effect until otherwise discharged. Lessee agrees to insure the Units under an inland marine policy for the sum of \$85,000.00 per each locomotive unit and to name CASO and its designated funding source as co-insured. Lessee agrees to provide CASO proof of such insurance as CASO may reasonably request. In the event of loss or damage to the Units, Lessee may elect to either:

- (a) place the Units in good repair
- (b) remit in full to CASO the outstanding balance and any other amounts owing under this Agreement.

10. Liability and Indemnity

Liability for the injury, disability, or death of any employee(s) or other person(s) caused by the operation, handling, or transportation of the Units during the term of this Agreement shall be assumed by Lessee and Lessee shall indemnify CASO against all such liability. Lessee shall maintain in effect a general liability policy with not less than \$2,000,000.00 of coverage with a deductible of not more than \$50,000.00 and shall provide CASO with a certificate of such insurance.

11. Taxes and Fees

Lessee shall pay all taxes, assessments, licenses, and registration fees on the Units during the term of this Agreement. Lessee shall furnish to CASO satisfactory proof of payment of such items and shall not permit such items to become delinquent.

12. Default

(a) Events of Default - An event of default shall be the occurrence of one or more of the following:

(i) Lessee shall fail to make any payment due under this Agreement in a timely manner. In the event of a missed or late payment, Lessee's failure to pay such amount in full within five days written notice of same by CASO shall constitute default.

(ii) Lessee shall default in the performance of any obligation under this Agreement.

(iii) Lessee shall cease to do business as a going concern.

(iv) Lessee shall become insolvent (however defined) or make any arrangement for the benefit of creditors.

(v) Lessee commits, or fails to commit, any act that jeopardizes the rights of CASO.

(vi) Lessee attempts to sell, transfer, encumber, sublet, or part with possession of the Units or any interest therein.

(vii) Lessee fails to take possession of the Units.

(b) Remedies for Default - Upon an event of default, CASO may elect any of the following remedies as well as any other remedies available under law:

(i) All sums due under this Agreement shall become immediately payable in full.

(ii) CASO may terminate the Agreement, except that such termination shall not serve to limit the obligations of Lessee as incurred under the Agreement.

(iii) The Units shall be returned to CASO, at Lessee's expense, at such place as CASO may designate. CASO, without notice or legal process and without incurring any liability, may enter any premises under the control of Lessee where the Units may be, or is believed to be, located for the purpose of repossessing the Units or any part thereof. Lessee expressly waives all further right to possession of the Units and all claims for injuries suffered through or caused by such repossession.

(iv) CASO may enforce by legal proceedings specific performance of all terms and conditions of this Agreement as well as any other remedy available under law. Should CASO institute such legal proceedings to recover the Units or any amounts owing under this Agreement, Lessee shall pay all expenses incurred by CASO or on behalf of CASO relating to such legal proceedings.

(v) No remedy shall be exclusive of any other remedy provided herein or by law. A waiver by CASO of any event of default shall not constitute any other or subsequent waiver.

#### 13. Term

The term of this Agreement shall commence upon the date first above written and shall continue for a period of sixty-one consecutive months.

#### 14. Monthly Rental

The monthly rental for the Units shall be \$2000.00 for each of the two locomotives for a total of \$4000.00 per month for the Units. Payments of \$2000.00 each shall be made semi-monthly with the first such semi-monthly payment due upon the execution of this Agreement. The second semi-monthly payment shall be due 15 consecutive days after the execution of this Agreement. Semi-monthly payments of \$2000.00 each shall continue on each monthly anniversary of the first and second payments for a total of 120 consecutive payments of \$2000.00 each. A late fee of \$100.00 per semi-monthly payment may be assessed by CASO for any payment that is not made when due and Lessee agrees to pay such late fee. Assessment and payment of such a late fee shall not serve as a waiver of default under Section 12 of this Agreement.

15. Return of the Unit

Upon the expiration of the term of this Agreement, Lessee shall, at no expense to CASO, return the Units to CASO in good condition, except for normal wear and tear, at such location on any premises controlled by Lessee as CASO may reasonably direct. In addition, Lessee agrees to make available, at no expense to CASO, a suitable location to store the Units on Lessee's premises for a period of up to sixty days.

16. Purchase Option

Upon the completion of the full sixty-one month term of this Agreement, and providing Lessee is not in default under this Agreement, Lessee may purchase either or both of the Units for the sum of \$34,000.00 per locomotive. At closing on such purchase of the Units, CASO shall provide Lessee good and marketable title to the Units free and clear of any liens or encumbrances.

17. Acceptance

CASO makes no warranties expressed or implied as to the condition or suitability of the Units. Lessee acknowledges that CASO has afforded Lessee the opportunity to examine and inspect the Units for the purpose of making any such determination.

18. Notice

Any notice required or permitted hereunder shall be delivered by the most expeditious reasonable means with prompt written confirmation via US Mail serving as the prescribed date of notice and delivered to the parties as follows:

President  
Canada Southern Railway Company  
916 Vine Street  
Connersville, IN 47331  
phone (317) 825-0316  
fax (317) 825-1237

President  
Camp Chase Industrial Railroad  
P.O. Box 28096  
Columbus, Ohio 43228  
(614) 539-0352

President  
Southwest Pennsylvania Railroad  
309 N. Fifth St.  
Youngwood, PA. 15697

19. Other Provisions

(a) Time - Time is of the essence of this Agreement.

(b) Governing Law - This Agreement shall be construed and enforced under the law of the State of Indiana and any action or claim arising herein shall be brought exclusively in this venue.

(c) Severability - If any provision of this Agreement or remedy provided for is found to be invalid under applicable law, such provision shall be deemed invalid and omitted. The remaining provisions, including any remedy for default, shall remain in effect.

(d) Syntax - Use of the term "Units" shall be deemed to constitute either singular or plural as each such usage may dictate.

(e) Acknowledgement - Lessee acknowledges receipt of a signed, true and exact copy of this Agreement.

(f) Assignment - Either party may assign this Agreement, except that, any such assignment by Lessee shall require the prior written consent of CASO which shall not be unreasonable withheld.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers or principals as identified below:

For CASO:

by: R. Powell Felix  
R. Powell Felix  
President

For Lessee:

by: Phillip C. Larson  
Phillip C. Larson  
President CCRA/SWP

Notary:

State of Indiana, County of Fayette:

I, Michele Witt, acknowledge the execution of R. Powell Felix, this 12th day of March 1997.

My commission expires: 11-21-97

Michele Witt  
Michele Witt, Notary

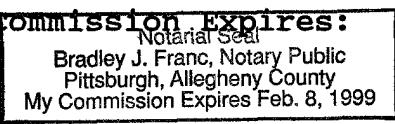
Notary:



COMMONWEALTH OF PENNSYLVANIA   )  
                                          )  
COUNTY OF ALLEGHENY               )

Sworn to and subscribed before me, Bradley J. Franc, Notary Public, personally appeared Phillip C. Larson, President CCRA/SWP, and acknowledge the execution of the foregoing Locomotive Lease Agreement the 21st day of April, 1997.

  
\_\_\_\_\_  
Notary Public

My ~~commission~~ **Expires:**  
  
Notarial Seal  
Bradley J. Franc, Notary Public  
Pittsburgh, Allegheny County  
My Commission Expires Feb. 8, 1999  
\_\_\_\_\_  
Member, Pennsylvania Association of Notaries

APPENDIX "A"

To Lease Agreement Number 7C01 between CASO and CCRA - SWP

Locomotive SWP 1706

Electro Motive Division GP-16 type

Built 1951

Former CSXT 1706 (SBD 4606)

Builders Number: 14954

Locomotive CCRA 1855

Electro Motive Division GP-16 type

Built 1951

Former CSXT 1855 (SBD 4809)

Builders Number: 13873

CASO Initials: RPF

Lessee Initials: Bel